82-2101

Office - Supreme Court, U.S.
FILED
JUN 13 1983
ALEXANDER L. STEVAS,
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

No.

KIRK CAMER, minor, and DOROTHY CAMER, parent and guardian,

Petitioners,

v.

ATTORNEY GENERAL OF WASHINGTON STATE, et al,

Respondents.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Dorothy Camer, pro se
9021 24th Avenue SW
Seattle, Washington 98106

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

No.

KIRK CAMER, minor, and DOROTHY CAMER, parent and guardian,

Petitioners,

v.

ATTORNEY GENERAL OF WASHINGTON STATE, et al,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Dorothy Camer, pro se
9021 24th Avenue SW
Seattle, Washington 98106

QUESTIONS PRESENTED

1. When the state courts have declared education a constitutional right of the common school children residing in the state and the state legislature has defined the basic educational program to which the common school children are entitled, can a common school student be denied that basic educational program without the protection of due process guaranteed by the Fourteenth Amendment?

2. Is a common school student entitled to notice and hearing or any due process at all before being deprived on non-disciplinary grounds of equal access to established education programs maintained by the state?

PARTIES

Petitioners:

Kirk Camer, minor common school student, and Dorothy Camer, parent and guardian

Respondents:

Ken O. and Jane Doe Eikenberry, attorney general of the State of Washington, and his spouse,
Norm and Jane Doe Maleng, prosecuting attorney for King County, State of Washington, and his spouse,
Frank B. and Jane Doe Brouillet, superintendent of public instruction of the State of Washington, and spouse,
Richard J. Alexander, Barbara Beushlein, Cheryl Bleakney, Suzanne Hittman, Dorothy Hollingsworth, Ellen J. Roe, and Patt Suttton, and their respective spouses, directors of the board of Seattle School District No. 1,
Mary Carson, Dominic Moreo, Robert Andrews, Michael Hoge, and Sharon Howard, and their respective spouses, administrative officials of the Seattle School District No. 1, and
David H. Stevens, Charles Trujillo, Albert Ewing, James Duggan, Charles Estrem, John Ostrom, Robert Springer, Penny Bradley, Shirley Hodgson, and Dean McCoy, and their respective spouses, principals and certificated teachers of the Seattle School District No. 1.

TABLE OF CONTENTS

	Page
Opinion Below	2
Jurisdiction	2
Constitutional Provisions Involved	2
Statutes Involved	4
Statement of Case	6
Reasons for Granting Writ	12
1. The Decision Below Conflicts with Established Decisions that the Rights of Students to Equal Opportunity and to Due Process for Instructional Disputes Are Protected under the 14th Amendment.	12
2. The Decision Below Conflicts with These Well-Established Precedents by Deciding without a Hearing that Plaintiffs' Claims Are "Insubtantial" and Raises Significant and Recurring Problems Concerning the Subjection of Common School Children to the Arbitrary and Capricious Decisions of Public Officials.	14
Conclusions	17

. ppendix
Opinion and Judgment of
the Court of Appeals A1
Opinion and Judgment of
the District Court A4
Complaint A8

TABLE OF AUTHORITIES

Federal Cases: Page
Board of Curators of Missouri Univ. v. Horowitz, 435 U.S. 78 (1978) 15
Brown v. Board of Education of Topeka, 347 U.S. 483 13
Carey v. Piphus, 435 U.S. 247 (1978) . 13
Goss v. Lopez, 419 U.S. 565 (1975) . 13,16
Hobson v. Hanson, 267 F. Supp 401 (1967) 13
Lau v. Nichols, 414 U.S. 563 (1973) . . 14
Wood v. Strickland, 420 U.S. 308 (1975) 13

State Cases:
Seattle School District v. State,
90 Wn2d 476, 585 P.2d 71 (1978) . . . 8
Camer v. Brouillet, Washington State
Appellate Ct. 10227-3-I
(unpublished) 16

Constitutional Provisions:
Amendment XIV, Sec. 1,
U. S. Constitution 2,6,11
Article I, Section 3,
Washington State Constitution . . . 3,11
Article IX, Section 1 and 2,
Washington State Constitution . 3,4,7,10

Statutory Provisions:
United States Code:
42 U.S.C. Sec. 1981 4
42 U.S.C. Sec. 1983 4,6,12
Revised Code of Washington State:
R.C.W. 28A.05.050 5,7,10
R.C.W. 28A.27.010 5,7

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1983

No.

KIRK CAMER, minor, and DOROTHY CAMER, parent and guardian,

Petitioners,

vs.

ATTORNEY GENERAL OF WASHINGTON STATE, et al,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

The petitioners, Kirk Camer and Dorothy Camer, respectfully pray that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit entered in this proceeding on February 16, 1983.

OPINION BELOW

The opinion of the Court of Appeals, not yet reported, appears in the Appendix hereto, A1-A3. The opinion of the District Court for the Western District of Washington also appears in the Appendix hereto, A4-A7.

JURISDICTION

The judgment of the Court of Appeals of the Ninth Circuit was entered on February 16, 1983. A timely petition for rehearing en banc was denied on March 28, 1983, and this petition for certiorari was filed within 90 days from that date. This Court's jurisdiction is invoked under USC Title 28, Section 1331 and 1343 and Article III of the Constitution.

CONSTITUTIONAL PROVISIONS INVOLVED

Quoted below are the principle constitutional provisions involved:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof are citizens of the United States and of the State wherein

they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Fourteenth Amendment, Section 1.

"No person shall be deprived of life, liberty, or property, without due process of law." Washington State Constitution Article I, Section 3.

"PREAMBLE. It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste,or sex." Washington State Constitution Article IX, Section 1.

"PUBLIC SCHOOL SYSTEM. The legislature shall provide for a general and uniform system of public schools. The public school system shall include common schools, and such high schools, normal schools, and technical schools as may

hereafter be established. But the entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools." Washington State Constitution Article IX, Section 2.

STATUTORY PROVISIONS INVOLVED

Quoted below are the principle federal and state statutes involved:

42 USC Sec. 1981. "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other."

42 USC Sec. 1983. "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State

or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

RCW 28A.05.050 "History and government in high schools. To promote good citizenship and a greater interest in and better understanding of our national and state institutions and system of government, the state board of education shall prescribe a one-year course of study in the history and government of the United States, and the equivalent of a one-semester course of study in the state of Washington's history and government. No person shall be graduated from high school without completing such courses of study."

RCW 28A.27.010 "Attendance mandatory - Age - Persons having custody shall cause child to attend public school unless

excused - Excused temporary absences. All parents, guardians and the persons in this state having custody of any child eight years of age and under fifteen years of age shall cause such child to attend the public school of the district in which the child resides for the full time when such school may be in session or to attend a private school for the same time unless the school district superintendent of the district in which the child resides shall have excused such child from attendance . . . ."

STATEMENT OF THE CASE

A dispute arose between (1) a student and his parent, the petitioners herein, and (2) the state officials of Washington, local officials and school district officials of the City of Seattle under Article III of the U. S. Constitution and the 1st, 5th, 7th, 9th, 13th, and 14th Amendments and also under U. S. laws, USC Title 5 Section 702, Title 42, Sections 1441, 1981, 1982, 1983, 1985, 1986, 1988, 2000 et seq, and 3601 et seq. The dispute

concerned the right of the student to elements of the school district's curriculum and the right of due process for educational grievances.

The student is required by Washington state law (RCW 28A.27.010) to attend the public school and also to attend a class in state government (RCW 28A.05.050). For reasons undisclosed to the petitioners, the student petitioner was denied equal access to the programs offered by the school district, denied instruction in several elements of the published curriculum for his grade, and denied instruction necessary to attain the goals of the class in state government as published by the school district and required by the state statute.

Prior to the entrance of the student petitioner into the Seattle Public Schools in the fall of 1978, the Seattle School District had filed suit against the State in December 1975 for a declaratory judgment on the rights of the school district to funding under Article IX of the Washington State Constitution. The

action resulted in a court decision declaring education a constitutional right of common school children and a paramount duty of the state to provide that education - a duty which can only be discharged by performance (Seattle School Dist. v. State, 90 Wn2d 476, 575 P.2d 71 (1978). The legislature defined the basic education program to which the students were entitled with the education laws of 1977, which became effective in the fall of 1978.

Petitioner school student, Kirk Camer, entered the sixth grade of the Seattle Public Schools in the fall of 1978. Petitioners are of Chinese ancestory and so classified by the Seattle School District. During the school year, petitioner Dorothy Camer became aware that Kirk had been denied elements of the sixth grade mathematics curriculum as published by the Seattle Public Schools. The following year instruction in penmanship was denied to Kirk although the Seattle seventh grade curriculum includes penmanship as an element. Poor writing

skills due to this lack of instruction seriously and adversely affected Kirk's performance in other academic areas. Inquiries to teachers, principals, and administrative personnel did not resolve the situation and the parent petitioner was forced to provide the deficient instruction to the student herself in order to prepare him for the next grade level. Petitioners filed an action for a declaratory judgment in the local King County Superior Court to determine the rights of the student to the basic educational program provided by the school district. The case was dismissed without hearing. Petitioners appealed the case. The State Appellate Court while affirming the constitutional right of the student to the basic educational program, upheld the lower court dismissal. Petitioners appealed further to the Washington State Supreme Court, which on November 8, 1982, declined to review the decision. There was no other state remedy available to the petitioners.

During the school year 1980-81, petitioners became aware of other educational programs denied to the student petitioner, i. e. denial of consideration for the honors mathematics class and denial of instruction in Washington state government. Washington state government is a compulsory class, (RCW 28A.05.050) designed to prepare the student to participate as a citizen in the political process. Again no explanation was given by any of the school personnel when petitioners made inquiry regarding the lack of instruction. The student petitioner finally did succeed in entering the honors mathematics course and completing both that course and the state government course successfully (i.e. with a passing grade). However, the student had no better understanding of state government as a result of attending the course in state government. Because education is the paramount duty of the state(Washington State Constitution, Article IX, Sec. 1), petitioners applied to the State Superintendent of

Instruction, the King County Prosecuting Attorney, which has enforcement authority over the Seattle School District, and the Attorney General of Washington State. These officials declined to investigate. Not a single official acted to determine if the responsibility of the school to instruct had been discharged. Petitioners filed this action in the U. S. District Court, Western District of Washington, for a violation of their civil rights under the Fourteenth Amendment. These rights are also guaranteed by the Washington State Constitution Article I, Section 3.

Petitioners, having applied to school, local, and state officials for remedy for the damages which student and his parent suffered, turned to the federal court as the only source of relief. The failure to receive instruction seriously impacted the ability of the student to function as a citizen in the political process. The denial of the other educational programs was totally unjustified. Not a single official acted to determine if the responsibility of the

school had been discharged. Since no reason, in fact no justification whatever, has been offered by Respondents for the denying to Petitioner Camer what is guaranteed to all other students, the only reasonable inference is that the petitioners are suffering discriminatory differential treatment resulting from arbitrary decisions of the officials. The appellate court has erred in its conclusions that petitioners have failed to so claim (See paragraphs 30-35 of Complaint, A23-A25). The error of the court seems to stem from the petitioners' claim to discrimination in itself and not based on race as a factor. 42 USC Sec. 1983 does not limit liability to deprivation of rights, privileges or immunities based on race, sex, or any other class.

REASONS FOR GRANTING THE WRIT

1. The Decision Below Conflicts with Established Decisions that the Rights of Students to Equal Opportunity and to Due

Process for Instructional Disputes Are Protected under the 14th Amendment.

Education has long been recognized as a property right, Brown v. Bd. of Education of Topeka, 347 U.S. 483 (1956), for which due process must be granted. While the specific extent of due process is not specified, the courts have been consistent in guaranteeing the right of students to some due process in educational grievances, Goss v. Lopez, 419 U.S. 565 (1975), and the duty of school officials to see that such process is provided, Wood v. Strickland, 420 U.S. 308 (1975). In Carey v. Piphus, 435 U.S. 247 (1978), the court found that the students' constitutional right of procedural due process is absolute and independent of the merits of the educational grievance, (435 U.S. at 266). The court, in Hobson v. Hanson, 269 F.Supp 401 (1967) found that even in a racially balanced school equal opportunity was unconstitutionally denied when a school system through tracking, denied equal access to established educational programs.

2. The Decision Below Conflicts with These Well-Established Precedents in Deciding without a Hearing that Plaintiffs' Claims Are "Insubtantial" and Raises Significant and Recurring Problems Concerning the Subjugation of Common School Children to the Arbitrary and Capricious Decisions of Public Officials.

The inability of students and parents to scrutinize the actions of the schools to perform for the benefit of students who are compelled to devote six to seven hours a day to school matters has been a festering sore for many years. The importance of this issue was recognized when a writ of certiorari to the Ninth Circuit was issued for the Lau v. Nichols, 414 U.S. 563 (1973) action. In that action Chinese parents asked the court to determine why the schools were not satisfying the needs of the Chinese-American children to obtain the education which the schools provided to other children. The recent report by the National Commission on Excellence in Education, entitled "A Nation at Risk"

gives evidence that it is not only the needs of Chinese-American children which are being neglected. Children are daily subjected to the arbitrary and capricious action of the schools, thus giving rise to a denial of their civil liberties with little or no compensating benefit. The court in the case of Bd. of Curators of Missouri v. Horowitz, 435 U. S. 78 (1978) took great care to guard against just such a situation.

While parents are required under state laws to send their children to school, they are powerless to protect their children in the school environment and to ensure that the civil liberties which are denied to the children during the time in school is offset by any benefit which the school will provide.

The lower courts have implied that the denial of instruction is unsubstantial, yet no hearing has been held to determine the extent of the damage. The petitioners in the original action have claimed that the denial is greater than the ten days suspension in

Goss v. Lopez, 419 U.S. 565, supra, in which the courts held that the students were entitled to due process protection. The Washington State Courts have denied petitioners a hearing for declaratory judgment to clarify the rights of students and their parents to the published curricula of the public school, Camer v. Brouillet, unpublished decision. Lacking such a declaratory opinion and lacking recourse to due process, students are subject to denial of any education for improper reasons, or for no reason at all, while schools are held immune from judicial scrutiny.

It has been customary for too long to depend on the good will of school officials to correct the instructional deficiencies of the school staff. Such custom has resulted in the deplorable state of education documented by the National Commission on Excellence in Education. Even more than that, such custom creates an absurdity of the constitutional rights of students and threatens our American democracy.

CONCLUSION

If the American concept of constitutional rights is to be developed in common school children, the courts must protect their right to due process and issue a writ of certiorari to review the judgment and opinion of the Ninth Circuit.

Respectfully submitted,

DOROTHY CAMER, pro se
9021 24th Avenue SW
Seattle, Washington 98106

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 81-3587
DC No C81-682M
MEMORANDUM

Kirk Camer, minor, and Dorothy Camer parent and guardian,

Plaintiffs-Appellants

vs.

Ken O. Eikenberry and Jane Doe Eikenberry, et al,

Defendants-Appellees.

Submitted - November 26, 1982*
Decided - February 16, 1983

Appeal from the United States District Court for the Western District of Washington, Walter T. McGovern, District Judge, Presiding

---

Before: Duniway, Fletcher, and Ferguson, Circuit Judges.

Dismissal of this action, involving a high school math honors program and an eighth grade social studies course, is justified if plaintiffs' claims were "so attenuated and unsubstantial as to be absolutely devoid of merit, . . .," Newburyport Water Co. v. Newburyport, 193 U.S. 561, 579 (1904), or "frivolous," Bell v. Hood, 327 U.S. 678, 683 (1946); Baker v. Carr, 369 U.S. 186, 199 (1962). The district court properly dismissed the action.

Plaintiff Dorothy Camer does not claim that her son was treated differently from other students in his classes, school, or school district or that he was denied education on the basis of a suspect classification. Therefore the equal protection claim is unsubstantiated.

The plaintiffs' due process claims are also unsubstantial. There is no property interest, protected by due process, in being notified of every educational offering a state makes available to those

available to those who ask or in receiving a given level of instruction. Due process protects only those entitlement which the state has established and maintained. See Goss v. Lopez, 419 U.S. 565, 574 (1975) (due process protects entitlement to public education).

Furthermore, no claim presented arises under federal statutes. These claims will lie, if at all, only in state court, where proceedings are being held. Dismissal was therefore proper. Gully v. First National Bank, 299 U.S. 109 (1936).

AFFIRMED

---

*The panel unanimously agrees that this case is appropriate for submission without oral argument.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

KIRK AND DOROTHY CAMER,
Plaintiffs,

v.

KEN O. AND JANE DOE EIKENBERRY,
Defendants

No. C81-682M

ORDER DENYING RELIEF AND DISMISSING ACTION

Concluding that the conduct complained of does not sound under the jurisdictional grounds advanced, the Court on June 11, 1981, entered an Order dismissing the complaint* filed in the above-captioned action, pursuant to Rule 12(h)(3), Federal Rules of Civil Procedure. Plaintiff parent and guardian now moves the Court for relief from the aforesaid Order.

This is a situation in which a federal claim is so attenuated and unsubstantial that it must be dismissed for want of jurisdiction of the subject matter. Baker v. Carr, 369 U.S. 186, 199 (1962).

matter. Baker v. Carr, 369 U.S. 186, 199 (1962).

The subject complaint recites inter alia difficulties encountered by the named student plaintiff in grades six, seven and eight, commencing in October or December of 1978. It is alleged inter alia that an honors program in mathematics was not made available to him in grade seven, nor until mid-year in grade eight, and that the instruction he received in Washington State history was inadequate.

A right to participate in an honors program in junior high school and to adequate instruction there is not guaranteed by the Civil Rights Act of 1871, of which 42 U.S.C. §1983 is a part, nor by the Fourteenth Amendment to the Constitution of the United States.

Not one specific fact is averred in support of the claim that Kirk Camer was denied the equal protection of the law in the manner in which academic program and instruction were made available to him, that any defendant treated him differently

In its Order of June 11, 1981, the Court said that these claims have been and continue to be litigated in the Courts of the State of Washington. Plaintiffs in reply contend on the contrary that whereas the state action was filed on April 7, 1980, "The incidents giving rise to the present federal action occurred in the fall-winter of 1980-81." That assessment is totally inconsistent with the complaint filed in the instant cause.

The record before us indicates that plaintiffs were and still are being given a full and fair opportunity to litigate whatever federal claim they may have in th Courts of the State of Washington. See Allen v. McCurry, 49 U.S.L.W. 4015 (1980).

Since it continues to be the opinion of the Court that the conduct complained of does not sound under the general jurisdictional grounds advanced, now therefore,

IT IS ORDERED that the motion of the plaintiffs for relief from the Court's Order of June 11, 1981, is DENIED and the action itself is hereby dismissed pursuant

Order of June 11, 1981, is DENIED and the action itself is hereby dismissed pursuant to Rule 12(h)(3), Federal Rules of Civil Procedure.

DATED this 25th day of September,1981.

/s/Walter T. McGovern
WALTER T. McGOVERN
Chief United States
District Judge

---

*The complaint rather than the action was dismissed in order to give the plaintiffs an opportunity to amend. They have not done so.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Civil Motion File No.
C81-682M
Complaint for Damages
and Mandamus Relief
for Protection of
Civil Rights of
Plaintiff Student

KIRK CAMER,minor, and
DOROTHY CAMER, parent and guardian,
Plaintiffs,

v.

KEN O. and JANE DOE EIKENBERRY,
NORM and JANE DOE MALENG,
FRANK B. and JANE DOE BROUILLET,
DAVID L. and JANE DOE MOBERLY,
RICHARD and JANE DOE ALEXANDER,
SUZANNE and JOHN DOE HITTMAN,
CHERYL and JOHN DOE BLEAKNEY,
PATT and JOHN DOE SUTTON,
ELLEN and JOHN DOE ROE,
DOROTHY and JOHN DOE HOLLINGSWORTH,

BARBARA and JOHN DOE BEUSCHLEIN,
MARY and JOHN DOE CARSON,
DOMINIC and JANE DOE MOREO,
WAYNE and JANE DOE PETERSON,
ROBERT and JANE DOE ANDREW,
MICHAEL and JANE DOE HOGE,
SHARON S. and JOHN DOE HOWARD,
DAVID H. and JANE DOE STEVENS,
CHARLES and JANE DOE TRUJILLO,
ALBERT and JANE DOE EWING,
JAMES and JANE DOE DUGGAN,
CHARLES and JANE DOE ESTREM,
JOHN and JANE DOE OSTROM,
ROBERT and JANE DOE SPRINGER,
PENNY and JOHN DOE BRADLEY,
SHIRLEY and JOHN DOE HODGSON, and
DEAN and JANE DOE McCOY,

Defendants.

This is an action to seek an order to compel defendants to perform their duties to protect the rights of plaintiff student and to seek damages for the defendants' failure to protect those rights heretofore

and for the violation of those rights to the defendants.

I. PARTIES

A. Plaintiffs

Kirk Camer, a resident of Seattle and a student of Denny Junior High School, is 13 years of age. He has been enrolled in the Seattle public schools since September 1978. He is classified as Chinese for racial identification.

Dorothy Camer, parent and guardian of Kirk, is a citizen of the United States and a property owner within the city limits of Seattle. She is of Chinese nationality.

B. Defendants

1. Defendant Ken O. Eikenberry is a duly elected and qualified Attorney General for the State of Washington. In such capacity he is a principal state official charged with the enforcement of state law. He is also charged with advising state officers in all legal matters.

2. Defendant Norm Maleng is the duly elected and qualified Prosecuting Attorney for King County and as such charged with

2. Defendant Norm Maleng is the duly elected and qualified Prosecuting Attorney for King County and as such charged with the duty, subject to the supervisory control and direction of the Attorney General, to investigate and take charge in all civil proceedings in which any school district within his county is a party and is a municipal official charged with the enforcement of the state law.

3. Defendant Frank B. Brouillet is the duly elected and qualified Superintendent of Public Instruction and is charged with the supervision over all matters pertaining to the public schools. The SPI serves as ex officio president and chief executive officer of the State Board of Education.

4. Defendants, Richard J. Alexander, Cheryl Bleakney, Dorothy Hollingsworth, Patt Sutton, Suzanne Hittman, Ellen J. Roe, and Barbara Beuschlein, are the duly elected and qualified directors (or were at the time the complaint arose) for the Seattle School District No. 1. In such

District No. 1, duly appointed by the board of directors. In such capacity he was responsible for carrying out the intent of the state laws pertaining to education as directed by the board of directors.

6. Defendant, Mary Carson, is the appointed assistant superintendent charged with curriculum development and program services.

7. Defendant, Dominic Moreo, is the duly appointed hearing officer for the district and charged with arranging hearings for grievances.

8. Defendant Wayne Peterson is the mathematics specialist for the Seattle School District charged with the development of the mathematics curriculum.

9. Defendant, Robert Andrew, is the director of secondary education charged with the supervision of junior and senior high schools.

10. Defendants Michael Hoge and Sharon Howard are general counsels for the Seattle School District charged with the proper handling of all legal matters for the board and the school district.

10. Defendants Michael Hoge and Sharon Howard are general counsels for the Seattle School District charged with the proper handling of all legal matters for the board and the school district.

11. Defendants David H. Stevens and Shirley Hodgson are principals for the Seattle School District; the former of Denny Junior High School, the latter was with Jefferson School at the time the plaintiff Kirk Camer attended that school.

12. Defendants, Charles Trujillo, Charles Estrem, John Ostrom, Robert Springer, and Dean McCoy are certificated personnel appointed as teachers to whose classrooms Kirk Camer has been assigned during his enrollment in the Seattle School District. They are charged with faithfully enforcing the course of study and regulations of the Seattle School District as appropriate for the course and the student, e. g. Kirk Camer.

13. Defendants, Albert Ewing and James Duggan, are certificated personnel appointed as department heads for their respective specialties and as such are

teachers and students to meet those requirements.

14. Defendant, Penny Bradley, is appointed counselor at Denny Junior High for the seventh and eighth grades while Kirk Camer attended those grades.

All of the defendants are charged in their individual capacities for the complaints herein. The respective spouses of all the defendants are members of their respective marital communities, and all liabilities herein are the liabilities of the respective marital community as well as the individual defendant.

II. ALLEGATIONS OF JURISDICTION

1. The civil action whereby the plaintiffs pray for are:

a) damages for injuries resulting in the violation of their civil rights as protected by the U. S. Constitution.

b) order compelling defendants to perform their duty within the scope of their offices to protect the plaintiffs against further violation of their civil rights, and in particular compelling the

b) order compelling defendants to perform their duty within the scope of their offices to protect the plaintiffs against further violation of their civil rights, and in particular compelling the superintendent of SSD and the board of directors to provide for adequate due process for grievances which the plaintiffs have expressed.

c) for injunctive relief against further harassment and denial of civil rights to the plaintiffs, but especially the student plaintiff.

2. The current action presents questions of actual controversy between the parties involving substantial constitution issues as to the rights of the plaintiff to equal opportunity and due process.

3. This action arises under ARticle II of the U. S. Constitution and the 1st, 5th, 7th, 9th, 13th, and 14th Amendments and also under U.S. laws, USC Title 5 Section 702, Title 42, Sections 1441, 1981, 1982, 1983, 1985, 1986, 1988, 2000 et seq. and 3601 et seq.

6. Pray for injunctive relief and order to compel performance are based on rules 57 and 65 of Federal Rules of Civil Procedure and upon USC 28 Section 2201 and 2202.

III. CLASS ACTION ALLEGATIONS

1. The members of the class are all students who have been denied the education which the Seattle School District has promised either explicitly in the official publications of the district or implicitly in the statements of the officers and administrative and certificated personnel.

2. About 50,000 children are directly effected by the present action. In addition 75,000 persons are affected through their parental/custodial relation to the children. Further all the citizens of this state who rely upon education as provided by the public common schools to foster intelligent citizenship so as to protect the society from the harmful consequences of an ignorant and incompetent citizen are affected by this action.

provided by the public common schools to foster intelligent citizenship so as to protect the society from the harmful consequences of an ignorant and incompetent citizen are affected by this action.

3. The plaintiffs are adequate representatives of the class since they are either common school child or parent/guardian of school child and/or citizen. There is no distinction which sets them apart from other common school children in their prayer for the same rights and privileges which should be accorded to all school children and their parents.

4. The question of law common to the class lie in the right of all to the protection of the constitution. This action is undertaken to enforce the equal opportunity and due process of all students.

5. The class is too numerous to be joined.

6. This action is of the utmost public interest. The importance of

education has been the subject of numerous articles in national and local publications and also of the broadcast news media. The Seattle School District has recently filed an action in the U.S. District Court to examine the constitutional funding requirements for basic education in Washington State. The Attorney General of Washington has countered by seeking to have the State Supreme Court reopen the case which the Seattle School District won in 1977 declaring education in Washington State a fundamental right of children.

IV. FACTUAL AND LEGAL ALLEGATIONS

1. In the fall of 1978, Kirk Camer, plaintiff, enrolled in the sixth grade of Jefferson School in Seattle. At first he seemed to adjust quickly, but late in the year his teacher had to resign because of illness. A new teacher, defendant Dean McCoy, took over in October or December. There were almost immediately personality clashes with the new teacher. Kirk felt that he was being intimidated. He also

illness. A new teacher, defendant Dean McCoy, took over in October or December. There were almost immediately personality clashes with the new teacher. Kirk felt that he was being intimidated. He also complained that arithmetic deteriorated to repetitive drill. Plaintiff adult, Dorothy Camer, counseled her son to discuss the matter with his teacher, but Kirk expressed extreme fear of doing that. Kirk felt that defendant McCoy vented his anger on Kirk without cause. Ms. Camer wrote to the principal, defendant Hodgson, and suggested that Kirk also talk to the principal. He did so. His father who was in town for a brief visit also talked to the principaL. There was no improvement. In February, Ms. Camer wrote to Mr. McCoy suggesting that Kirk was bored with arithmetic drill. Mr. McCoy did not respond. Several telephone calls and letters to the principal ensured with Kirk becoming increasingly dissatisfied with the instruction. At the end of the term, Ms. Camer discovered that Mr. McCoy had not provided all of the instruction for

there were any alternatives to the regular math curricula which Mr. McCoy offered.

3. Several complaints were made to central administrative personnel resulting in a meeting on August 28, 1979. The meeting included assistent superintendent Hal Reasby, area administrator Margaret Chow, defendant Howard, and some other interested parties. The school personnel present admitted that no audit was or is made nor planned to determine whether the curriculum published by the Seattle Schools is actually taught in the classroom. The administrators promised to see that improvements would be made and suggested that Ms. Camer talk to the principals of the schools to which her children would be going.

4. A week or so before the beginning of the September 1979 term, Ms. Camer had a meeting with Mr. Stevens as the central administrators had suggested. Ms. Camer informed Mr. Stevens that she expected Kirk to receive all of the services to which he was entitled, including all instruction for his grade level. She indicated that Kirk

4. A week or so before the beginning of the September 1979 term, Ms. Camer had a meeting with Mr. Stevens as the central administrators had suggested. Ms. Camer informed Mr. Stevens that she expected Kirk to receive all of the services to which he was entitled, including all instruction for his grade level. She indicated that Kirk was particularly talented in mathematics and found the regular curriculum boring, but they (the plaintiffs) would not complain as long as Kirk was receiving all of the instruction for the math curriculum. At no time did Mr. Stevens mention any alternative to the regular math program.

5. When Kirk enrolled in Denny, defendant Bradley, assisted him with his schedule. At no time did Ms. Bradley inform Kirk that there was any alternative to the regular math program.

6. During the fall of 1979, Kirk complained of his boredom in mathematics class to his mother. Ms. Camer called Mr. Estrem in an attempt to determine if anything could be done. Mr. Estrem was

* * *

9. Defendant Stevens confirmed the fact that Ms. Steele, Kirk's language arts instructor, had not provided the penmanship instruction claiming that this was her prerogative. He refused to enforce the curriculum.

* * *

17. In January 1981, Ms. Camer discovered that the Washington State Social Studies course #1018 which Kirk was completing did not fulfill the objectives as published in the Social Studies Program Overview for the Seattle School District.

* * *

26. Ms. Camer applied to defendant Moreo for hearings on both the denial of equal opportunity to the math honors program and denial of instruction for the Washington State history course. No response was returned by Mr. Moreo, but a response from defendant Howard stated that there were not hearings for other than disciplinary grievances.

27. Ms. Camer applied to the board of directors, defendants Alexander, Bleakney,

26. Ms. Camer applied to defendant Moreo for hearings on both the denial of equal opportunity to the math honors program and denial of instruction for the Washington State history course. No response was returned by Mr. Moreo, but a response from defendant Howard stated that there were not hearings for other than disciplinary grievances.

27. Ms. Camer applied to the board of directors, defendants Alexander, Bleakney, Hittman, Sutton, Roe, Bueschlein, and Hollingsworth and also to the superintendent defendant Moberly. None of them replied, but a letter was received from defendant Hoge stating to the effect that the school board and personnel had lost patience with Ms. Camer and if she brought any court actions or filed any more complaints with the Office of Civil Rights, they would make sure she (Ms. Camer) paid for it.

28. Ms. Camer applied to defendant Maleng on March 8 and receiving no response again on May 15 asking that he enforce the state laws regarding teaching

plaintiffs grievances. In most cases no reason has been given at all. Thus their decisions are arbitrary and capricious.

31. Education has been recognized by the courts as a property right. Further since the plaintiff student is compelled to attend school and required to attend the Washington State History course, he has also a liberty interest. Grievances relating to property and liberty interests are granted due process by the 14th Amendment of the U. S. Constitution.

32. No clear definition of what due process is required, but at minimum the procedure should be fair and reasonable and comparable to the seriousness of the interest.

33. The seriousness of the interest in this situation is as great as a student threatened with ten days suspension and therefore is entitled to a formal hearing. The plaintiffs good names, reputation, honor, and integrity are at stake and they must have 14th amendment protection.

34. Plaintiffs have a right to rely on the school publication to accurately

procedure should be fair and reasonable and comparable to the seriousness of the interest.

33. The seriousness of the interest in this situation is as great as a student threatened with ten days suspension and therefore is entitled to a formal hearing. The plaintiffs good names, reputation, honor, and integrity are at stake and they must have 14th amendment protection.

34. Plaintiffs have a right to rely on the school publication to accurately reflect the services of the school district. Deviations without explanation are a breach of contract. This also amounts to a property interest and falls under the jurisdiction of this court.

35. Plaintiffs believe that defendants by failing to fulfill their duty to the plaintiffs have actively and/or passively conspired to deny plaintiffs their civil rights.

V. ALLEGATIONS AS TO NEED FOR ORDER TO COMPEL PERFORMANCE

1. Plaintiffs are entitled to relief in this matter to avoid being compelled to act in a manner which is disruptive.

2. The present procedures of the Seattle School District are inadequate and unlawful and do irreparable damage by denying plaintiffs due process for grievances and redress when merited.

3. The failure of SSD to provide relief for grievances impacts the racial minorities and economically deprived to a greater extent than to the community as a whole, because those classes are less able to enforce their rights or find relief by other means and are thus sometimes driven to disruptive methods for seeking relief.

4. Enforcement of due process and equal opportunity protection must be compelled in order that students and their parents may proceed with sound educational plans within their economic means.

5. Plaintiffs have no adequate remedy at law unless the Court grants the relief prayed for.

6. No substantial harm will befall parties if the order to compel compliance is granted since relief should have been provided under the state laws and the U. S. Constitution.

7. There is a substantial likelihood that plaintiffs will be ultimately successful.

VI. PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray,

1. That defendants be required to answer this complaint in conformance with the rules and practices of this court,

2. For declaratory judgment defining the obligations of the defendants under the Constitution and state laws,

3. For issuance of writ of mandamus to compel defendants to perform their duty and in particular to provide due process,

4. For damages in the sum of $15,000 from each and every defendant for their violation of the civil rights of the plaintiffs,

5. For costs and reasonable attorney fees,

6. For permission to amend pleadings to conform with proof offered at time of trial,

7. Such other and further relief as the Court may deem appropriate.

Respectfully submitted,

/s/Dorothy Camer

June 5, 1981

Dorothy Camer, pro se
9021 24th Avenue SW
Seattle, Wash. 98106
(206) 767-4229